

Appl. No. 10/656,488
Atty. Docket No. AA602M
Amdt. dated 10/11/2005
Reply to Office Action of 8/11/2005
Customer No. 27752

REMARKS

Claim Status

Claims 1-17 are pending in the present application. No additional claims fee is believed to be due.

Rejection Under 35 USC §112 Withdrawn

The Applicant thanks the Examiner for the withdrawal of the 35 USC §112 rejection of Claims 11 and 12.

Objection to Claims 11 and 12

Applicants respectfully submit that the requested change of the informalities of Claims 11 and 12 be made upon allowance by Examiner's amendment.

Rejection Under 35 USC §103(a) Over Keuhn, J. et al. in view of Molnar et al.

Claims 1-3 and 6-17 have been rejected under 35 USC §103(a) as being unpatentable over Keuhn, J. et al. (6,558,363) in view of Molnar et al. (5,143,680). This rejection is traversed because the cited references do not establish a *prima facie* case of obviousness. Specifically, there is no suggestion or motivation to one skilled in the art to modify Keuhn to have the surfactant of Molnar, as suggested by the Examiner. Therefore, the claimed invention is unobvious and that the rejection should be withdrawn.

Claims 1-3 and 6-15

Applicants maintain the arguments filed 5/10/05, which are incorporated herein by reference. In brief, while the claimed ingredients may have been known in separate disclosures, there is no teaching that would lead one skilled in the art to make the required combination.

The Examiner maintains that "it has been held to be within the general level of skill of one in the art to select a known material on the basis of its suitability for the intended use."

However, the selection must be based on some teaching or motivation to combine. Simply finding known materials in separate disclosures and saying the can be combined

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is not sufficient. There must be some prompting or motivation to combine. In this case, the Examiner has not identified any motivation. For example, the Examiner has not shown that the "intended use" is even recognized by either piece of prior art. Certainly if neither reference identifies the intended use, it cannot be maintained that the skilled person would be motivated to select any of the disclosed materials for the claimed intended use.

Applicants respectfully maintain that the claimed invention is only considered obvious in hindsight, after the proper combination of ingredients has been discovered. There is no indication that Molnar recognized the value of phosphate esters as a surfactant, and it is only after the instant invention that such value is realized.

Accordingly, the Applicants respectfully submit that the 35 USC §103(a) rejection of Claims 1 and its dependent claims (Claims 2-15) over Keuhn, J. et al. (6,558,363) in view of Molnar et al. (5,143,680) be withdrawn.

Claims 16-17

Keuhn provides no motivation for combining an anionic surfactant with the claimed absorbent gelling materials and the claimed fibers in the claimed density under pressure range. Again, as above, simply finding all the pieces in the prior art is not sufficient for finding a motivation to combine. Only in hindsight can it be said that the instant invention is obvious. The cited reference simply provide no nexus for the claimed combination.

Therefore, the Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness with respect to Claim 16. Accordingly, the Applicants respectfully submit that the 35 USC §103(a) rejection of Claim 16 and its dependent Claim 17 over Keuhn, J. et al. (6,558,363) in view of Molnar et al. (5,143,680) be withdrawn.

Rejection Under 35 USC §103(a) Over Keuhn, J. et al. in view of Mor et al.

Claims 1-5 have been rejected under 35 USC §103(a) as being unpatentable over Keuhn, J. et al. (6,558,363) in view of Mor et al. (5,969,026). This rejection is traversed because the cited references do not establish a *prima facie* case of obviousness. Specifically, there is no suggestion or motivation to one skilled in the art to modify

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Keuhn to have the surfactant of Mor, as suggested by the Examiner. Therefore, the claimed invention is unobvious and that the rejection should be withdrawn.

Keuhn is silent with respect to a specific surfactant composition. The Office Action states that skilled person looking at Mor would be motivated to use "prior art compositions" as disclosed in Molnar. The Applicants respectfully traverse this rejection for the following reasons.

Applicants respectfully submit that the claimed invention is only considered obvious in hindsight, after the proper combination of ingredients has been discovered. There is no indication that Mor et al. recognized the value of phosphate esters as a surfactant, and it is only after the instant invention that such value is realized.

Accordingly, the Applicants respectfully submit that the 35 USC §103(a) rejection of Claims 1-5 over Keuhn, J. et al. (6,558,363) in view of Mor et al. (5,969,026) be withdrawn.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections of Claims 1-17. Early and favorable action in the case is respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By


Signature

Roddy M. Bullock

Typed or Printed Name

Registration No. 37,290

(513) 634-0870

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